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STATEMENT BY  
THE HONOURABLE WILLIAM WRYE  
MINISTER OF LABOUR  
ON THE  
OCCUPATIONAL HEALTH AND SAFETY ACT



2:00 P.M.

THURSDAY, NOVEMBER 21, 1985  
THE LEGISLATIVE ASSEMBLY OF ONTARIO  
QUEEN'S PARK, TORONTO



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THANK YOU, MR. SPEAKER:

AS HONOURABLE MEMBERS KNOW, THE PROTECTION OF THE HEALTH AND SAFETY OF ONTARIO'S WORKING MEN AND WOMEN IS A CRITICALLY IMPORTANT ASPECT OF ANY MINISTER OF LABOUR'S RESPONSIBILITY.

THIS GOVERNMENT AND THIS MINISTER BELIEVE THAT, WHILE THERE IS MUCH TO COMMEND OCCUPATIONAL HEALTH AND SAFETY LAW AND ITS ENFORCEMENT IN ONTARIO, IMPROVEMENTS ARE REQUIRED.

IN THAT REGARD, MR. SPEAKER, I AM PLEASED TO INFORM THIS HOUSE TODAY THAT THREE MAJOR CHANGES IN THE OCCUPATIONAL HEALTH AND SAFETY LAW AND ITS ADMINISTRATION ARE BEING UNDERTAKEN.

FIRST, SECTION 145 OF THE INDUSTRIAL REGULATIONS MADE UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT IS BEING REWRITTEN TO PROVIDE GREATER PROTECTION TO WORKERS WHO MAY BE EXPOSED TO TOXIC SUBSTANCES.

SECOND, A NEW MINISTRY POLICY ON THE ISSUANCE AND ENFORCEMENT OF ORDERS UNDER THE ACT IS BEING PUT INTO EFFECT. THIS POLICY WILL ENSURE THAT THE ACT IS ENFORCED WITH SUBSTANTIALLY GREATER VIGOUR.

THIRD, THE MINISTRY'S POLICY ON PROSECUTION IS BEING REVISED TO EXPAND THE NUMBER OF SITUATIONS WHERE PROSECUTIONS WILL BE LAUNCHED.



MR. SPEAKER, SECTION 145 OF THE INDUSTRIAL REGULATIONS MADE UNDER THE ACT IS OF CENTRAL IMPORTANCE FOR THE PROTECTION OF WORKERS IN RELATION TO TOXIC SUBSTANCES. IN RECENT MONTHS, IT HAS BECOME APPARENT THAT THIS SECTION MUST BE MADE MORE EXPLICIT, STRINGENT AND ENFORCEABLE. IT IS MY INTENTION TO RECOMMEND TO MY COLLEAGUES THAT SECTION 145 BE REVISED SO THAT THREE VITAL POINTS ARE ADDRESSED. THESE ARE:

- (1) THE REQUIREMENT THAT EMPLOYERS REDUCE EXPOSURES TO TOXIC SUBSTANCES THROUGH THE USE OF ENGINEERING CONTROLS, AND THAT THE USE OF RESPIRATORS BE PERMITTED ONLY IN EXCEPTIONAL CIRCUMSTANCES;
- (2) THE NEED TO INCORPORATE, BY REFERENCE IN THE REGULATIONS, SPECIFIC EXPOSURE CRITERIA FOR TOXIC SUBSTANCES;
- (3) THE NEED TO REDUCE SUBSTANTIALLY THE REQUIRED TIME PERIOD FOR AIR SAMPLING TO DETERMINE IF EXPOSURE HAS BEEN EXCESSIVE.

THESE CHANGES WILL ENHANCE THE MINISTRY'S CAPACITY TO SECURE A CONVICTION WHEN CHARGES FOR CONTRAVENING SECTION 145 ARE BROUGHT AGAINST AN EMPLOYER.

NOW, MR. SPEAKER, LET ME TURN TO THE MINISTRY'S NEW POLICY ON THE ISSUANCE AND ENFORCEMENT OF ORDERS UNDER THE

OCCUPATIONAL HEALTH AND SAFETY ACT. AS I HAVE INDICATED IN THE HOUSE ON SEVERAL OCCASIONS IN THE PAST, I REGARD COMPLIANCE WITH THE ACT TO BE A FIRST PRIORITY -- PERHAPS THE MOST IMPORTANT AREA OF PUBLIC ADMINISTRATION FOR WHICH I AM RESPONSIBLE. IN THIS RESPECT, I AM PLEASED TO REPORT THAT THE MINISTRY'S NEW OCCUPATIONAL HEALTH AND SAFETY ORDERS POLICY HAS BEEN FINALIZED. THIS POLICY IS DESIGNED TO ENSURE EARLY AND FULL COMPLIANCE WITH ORDERS ISSUED BY MINISTRY INSPECTORS.

LET ME NOW ENUNCIATE FOUR OF THE MOST IMPORTANT ATTRIBUTES OF THE POLICY:

(1) ORDERS WILL NOT BE REISSUED;

(2) COMPLIANCE WILL BE REQUIRED AT THE EARLIEST PRACTICABLE DATE;

(3) SPECIFIC DEADLINES WILL BE SET FOR COMPLIANCE WITH EVERY ORDER ISSUED;

(4) EXCEPT IN THE MOST LIMITED OF CIRCUMSTANCES, A PROSECUTION WILL BE COMMENCED IF THE DEADLINES ARE NOT MET.

THE VALENITE-MODCO CASE IS A CLASSIC ILLUSTRATION OF THE LIMITATIONS INHERENT IN THE FORMER GOVERNMENT'S ORDERS POLICY. THE NEW ORDERS POLICY IS SPECIFICALLY DESIGNED TO ADDRESS AND ELIMINATE THESE SHORTCOMINGS.



I BELIEVE THAT THE FORMER PROSECUTION POLICY UNDULY RESTRICTED THE CIRCUMSTANCES FOR WHICH CHARGES WERE TO BE CONSIDERED. FOR EXAMPLE, THE NEW POLICY WILL REQUIRE PROSECUTION TO BE CONSIDERED WHERE MINIMUM AGE REQUIREMENTS FOR CERTAIN TYPES OF WORK ARE CONTRAVENED. MR. SPEAKER, IF THE PRINCIPAL PURPOSE OF PROSECUTION IS DETERRENCE, THEN WE OUGHT NOT TO LIMIT THE CIRCUMSTANCES IN WHICH PROSECUTION MIGHT BE APPROPRIATE.

WHILE I BELIEVE THAT THE NEW ORDERS AND PROSECUTION POLICIES WILL SIGNIFICANTLY ENHANCE THE ENFORCEMENT OF THE LEGISLATION, I WISH TO EMPHASIZE THAT WE ARE ALSO CONSIDERING AMENDMENTS TO THE OCCUPATIONAL HEALTH AND SAFETY ACT, TO TIGHTEN UP THE EXISTING SECTIONS DEALING WITH ORDERS AND PROSECUTIONS.

IN CLOSING, MR. SPEAKER, LET ME SAY THAT I AM BOTH SATISFIED AND CONVINCED THAT THE INITIATIVES WHICH I HAVE OUTLINED, REPRESENT A SUBSTANTIAL MOVE FORWARD IN THIS GOVERNMENT'S CONTINUING EFFORT TO ENHANCE THE PROTECTION OF WORKER HEALTH AND SAFETY IN THE PROVINCE.

THANK YOU.



Office of the  
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November 25, 1985

ANNOUNCEMENT

On Thursday, November 21st I made an important statement on the Occupational Health and Safety Act in the Legislative Assembly of Ontario. I informed the House that major changes in the occupational health and safety law and its administration are being undertaken. Attached for your information is a copy of my statement and the policy on the issuance of orders.

A handwritten signature in dark ink, reading "Will Wrye".

William Wrye  
Minister

Attachment





**POLICY**  
**REGARDING ORDERS ISSUED UNDER**  
**THE OCCUPATIONAL HEALTH AND SAFETY ACT AND REGULATIONS**  
**INCLUDING DESIGNATED SUBSTANCE REGULATIONS**

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**1. ISSUANCE OF ORDERS**

It is the policy of the Ministry that, where a contravention is found by an inspector, an order shall be issued except in the limited circumstance where an inspector is satisfied, on reasonable grounds, that due diligence has been exercised or the contravention is merely technical. It is also the policy of the Ministry that compliance with Ministry orders take place at the earliest practicable date.

Oral orders shall be given by the inspector to the employer or his representative at the time the contravention is identified. Where an oral order is made, it shall be confirmed in writing before the inspector leaves the workplace.

Orders shall cite the section of the Act and regulation, and the nature and location of the contravention. The order shall also describe the kinds of remedial steps which may be taken to achieve compliance (e.g. a health hazard may be controlled by: improved ventilation, isolation, etc.)

Written orders shall be given to the contravener. The orders shall also be given to the owner, constructor, employer or person in charge of the workplace, and this person shall forthwith post a copy in a conspicuous place and give a copy to the health and safety representative and the committee, if any. Where a person has complained of a contravention of the Act or regulations, the inspector shall transmit a copy of the orders to to this person.

## **2. TYPES OF ORDERS**

### **(a) Stop Work Orders (Section 29(4)):**

Where a requirement of the Act or the regulations has been contravened, and where immediate measures are required to protect the health or safety of a worker, a written stop work order shall be issued and a notice shall be affixed.

### **(b) Forthwith Orders (Section 29(1)):**

Where a stop work order is not required and compliance can be achieved without delay (and at the latest by the time the inspector leaves the workplace), a forthwith order shall be issued.

### **(c) Orders Specifying Time for Compliance (Section 29(1)):**

Where neither a stop work order nor a forthwith order is appropriate, an order shall be issued, which specifies the time within which compliance must be achieved. The deadline for compliance will be determined by the inspector, following consultation if possible with the employer representative(s) and the worker representative(s). Notwithstanding agreement between the employer and worker representative(s), the inspector must be satisfied that the earliest possible compliance deadline is set out in the order.

In some cases, compliance may take some time, due to the nature of the requirements to be implemented. In these cases, the inspector will issue an order which establishes compliance deadlines for each stage of a compliance plan or schedule, which will be requested from the employer. In this way the Ministry is able to monitor the on-going progressive compliance with the order. The inspector will ensure that the order provides interim protection of workers until the orders have been complied with.



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(d) Orders to Control Exposure to Toxic Substances:

The inspector will include in any order for engineering controls or, where necessary, respiratory protection (or other personal protective equipment), a requirement for the employer to verify compliance by the established compliance date by submitting a report by a qualified person on worker exposure to the airborne concentration or level of the substance. This will assist the Ministry in determining the effectiveness of control measures which have been ordered.

(e) Section 20 of the Act:

Where an investigation of worker exposure to a toxic substance reveals that a biological, chemical or physical agent is likely to endanger the health of a worker, an inspector shall immediately initiate a request for a section 20 order, unless the hazard can be effectively controlled by existing regulations.

Either the Director of the Occupational Health Branch or the Director of the Special Studies and Services Branch (in the event of a radiation hazard) shall be notified. The Director shall consider the factors listed in section 20(8) of the Act and shall issue an order under section 20 of the Act, if appropriate.

This does not apply to toxic substances governed by designated substances regulations.

**3. SUSPECTED CONTRAVENTIONS**

An inspector may, from time to time, have reason to believe that a potential hazard exists but is unable to establish a contravention. In such a case the inspector shall require the employer to provide pertinent information (section 28(1) of the Act) and shall seek appropriate supervisory, technical or professional advice.



In the meantime, the inspector shall inform the employer and joint health and safety committee or worker representative(s) of the potential hazard and contravention, and the appropriate precautions that should be taken if the hazard existed. The inspector will also explain the steps that he will be taking to complete the investigation. These actions are to be noted in the inspection report.

#### **4. ORDER FOLLOW-UP**

##### **(a) Orders Complied with at time of Inspection:**

Where a contravention of the Act or regulations is observed, and it is corrected at the time of inspection, an inspector shall issue a written order and note that compliance occurred at the time of inspection.

##### **(b) Stop Work Orders:**

An inspector shall verify compliance with a previously issued stop work order by physical inspection and removal of the corresponding notice and withdrawal or cancellation of the order. In determining whether the stop work order has been complied with, the inspector shall consult with the employer and worker representative(s).

##### **(c) Notification of Compliance with Orders:**

Notification of compliance forms will be left with the employer by the inspector when orders are issued. The inspector will request the employer and the worker representative(s) selected or appointed under section 28(3) to sign and submit the form to the local Branch office as soon as compliance has been achieved. The employer will be requested to post a copy or copies of this form in a conspicuous place or places at the workplace where it is most likely to come to the attention of the workers. Where appropriate, follow-up inspections will be undertaken.



**5. NON-COMPLIANCE WITH ORDERS**

Where there has been a failure to comply with an order, the order will not be reissued or repeated.

Where an order has been previously issued and non-compliance is noted on a subsequent visit, the inspector shall:

- (a) note details of non-compliance;
- (b) reference section 37 of the Act (prosecution) in the inspection report;
- (c) issue a stop work order when immediate measures are required to protect the health or safety of a worker;
- (d) proceed to initiate a prosecution in accordance with the Division policy and procedure on prosecutions except in the limited circumstance that an inspector is satisfied on reasonable grounds that the contravener has made every reasonable effort to comply; and
- (e) initiate injunction proceedings under section 31 and a prosecution if a stop work order has been contravened.

